

Deficiency Status Report 3

Status Report Submitted: September 7, 2007

CUPA Name: Alameda County Environmental Health

Evaluation Date: August 30 - 31, 2006

Next Status Report Due: August 2, 2007

State Evaluation Team:

Cal/EPA Team Leader: Kareem Taylor

DTSC Evaluator: Mark Pear

OES Evaluator: Brian Abeel

Based on the CUPA's corrective action responses, the following deficiencies are considered corrected and no further updates are required: 1, 2, 3, 7, 8, 10

Deficiencies and Corrective Actions

1. **Deficiency:** On the Annual Enforcement Summary Reports (Summary Report 4) for fiscal years (FYs) 02/03, 03/04, and 04/05, the CUPA did not correctly report facility violation types, enforcement actions, and fine/penalty information.

Preliminary Corrective Actions: By September 30, 2006, correctly report the following information into the FY 05/06 Annual Enforcement Summary Report:

- In the "other" column, report the number of businesses with violations.
- In the "no. of informal enforcement actions" column, report the number of businesses that received informal enforcement actions.
- In the fines/penalties assessed and collected columns, report the amount of penalties assessed and collected by the CUPA.

Cal/EPA's 3rd Response: This deficiency is considered corrected.

2. **Deficiency:** The self-audit reports for FYs 03/04 and 04/05 did not contain all of the required elements. The self audit reports were missing a narrative summary of the CUPA's inspection and enforcement activities. The narratives for the single fee activities and the fee accountability program need to be more descriptive.

Preliminary Corrective Actions: By September 30, 2006, submit the CUPA's FY 05/06 self-audit report to Cal/EPA that contains the descriptive narrative summaries of the inspection and enforcement activities, single fee activities, and the fee accountability program.

Cal/EPA's 3rd Response: This deficiency is considered corrected.

3. **Deficiency:** The CUPA does not have a CalARP dispute resolution procedure.

Preliminary Corrective Actions: By November 30, 2006, the CUPA will develop a CalARP dispute resolution procedure that addresses all of the elements of Title 19, 2780.1.

Cal/EPA's 3rd Response: This deficiency is considered corrected.

4. **Deficiency:** The CUPA is not inspecting all HMRRP facilities once every three years as required by law.

Preliminary Corrective Actions: By September 1, 2007, and annually thereafter, the CUPA will inspect at least one third (33% per year) of the businesses subject to the Business Plan Program.

CUPA's 3rd Status Update: CUPA had recently hired a Senior Hazardous Materials Specialist on August 27, 2007. Addition of new staff will help with meeting the inspection goal (33% per year). Voluntary overtime work is on going to catch up with inspection using the prioritized list of inventoried facilities. CUPA supervisor and CUPA consultant are also inspecting inventoried Cal ARP facilities for all programs (Generator, HMBPs, Tiered Permits, AGT). CUPA will be opening another position (Hazardous Materials Specialist) to assists with the inspection needs of the program.

5. **Deficiency:** The CUPA's area plan has not been revised in the past three years.

Preliminary Corrective Actions: By November 30, 2006, the CUPA will develop a timeline for review and revision of the area plan.

CUPA's 3rd Status Update: CUPA is currently drafting a contract with Boykin Consulting to update the Area Plan. Target date is to have the Area Plan updated before the end of December 2007 .

6. **Deficiency:** The CUPA is not forwarding the data (Business Plan) collected, within 15 days of receipt and confirmation, to other local

agencies in a format easily interpreted by those agencies with shared responsibilities for protection of the public health and safety and the environment.

Preliminary Corrective Actions: By November 30, 2006, the CUPA shall forward the information within 15 days of receipt to the respective fire agencies or develop a memorandum of understanding between these fire agencies, and signed by all parties involved; specifying the agreement on what and how often information is forwarded.

CUPA's 3rd Status Update: CUPA has completed scanning all current business plans submitted for each inventoried sites. Scanned HMBP included site maps, which are confidential. Prior to submitting the scanned HMBPs, CUPA will request County Counsel's advise on confidentiality agreement with Fire agencies. CUPA is also exploring giving Fire Departments direct access to HMBP information via our website.

7. **Deficiency:** The CUPA is not providing all information contained from completed inventory forms, upon request, to emergency rescue personnel on a 24-hour basis.

Preliminary Corrective Actions: By November 30, 2006, the CUPA shall develop provisions for providing all information to on-call personnel and emergency rescue personnel on a 24-hour basis.

Cal/EPA's 3rd Response: This deficiency is considered corrected.

8. **Deficiency:** The self-audits FY 03/04, 05/06 did not include CalARP Program self-audit elements. A CalARP audit report shall be compiled annually based upon the previous fiscal year's activities and shall contain an executive summary and a brief description of how the CUPA is meeting the requirements of the program as listed in Section 2780.3

Preliminary Corrective Actions: By November 1, 2006, the CUPA shall conduct an audit of its activities to implement the CalARP Program.

Cal/EPA's 3rd Response: This deficiency is considered corrected.

9. **Deficiency:** The CUPA is not conducting inspections with a frequency that is consistent its Inspection and Enforcement Plan and with the inspection of other program elements. The CUPA has not inspected all 550 hazardous waste generators (HWGs) that have been identified by the CUPA.

Preliminary Corrective Actions: By July 31, 2007, allocate additional staff resources to the hazardous waste generator program. By July 31,

2007, and annually thereafter, the CUPA should conduct routine inspections of at least one-third (33%) of the CUPA's HWG facilities.

CUPA's 3rd Status Update: CUPA recently hired a Senior Hazardous Materials Specialist on August 27, 2007. Addition of new staff will help meet the inspection goal (33% of HWG facilities). Voluntary overtime work is on going to catch up with inspection using the prioritized list of inventoried facilities. CUPA supervisor and CUPA consultant are also inspecting inventoried Cal ARP facilities for all programs (Generator, HMBPs, Tiered Permits, AGT). CUPA will be opening another position (Hazardous Materials Specialist) to assists with the inspection needs of the program.

- 10. Deficiency:** The CUPA does not have in its written policy and procedures a written acknowledgment of the receipt of Tiered Permitting notifications and a method to handle incomplete/inaccurate forms.

Preliminary Corrective Actions: By January 1, 2007, the CUPA shall amend its written policy and procedures to include a written acknowledgment of PBR notifications along with identifying any corrections of inaccurate or incomplete forms from businesses.

Cal/EPA's 3rd Response: This deficiency is considered corrected.

- 11. Deficiency:** The CUPA failed to take formal enforcement for the Class I violations noted during the evaluation.

Preliminary Corrective Actions: In the future, any Class I violations must be addressed through a formal enforcement action according to the State Enforcement Response Policy.

CUPA's 3rd Status Update: CUPA referred a case (Sara Lee Foods in San Lorenzo) to the District Attorneys Office for illegal disposal of waste. The case was settled recently (\$70,000 fines). CUPA's newly hired Senior Hazardous Materials Specialist will be the lead in our enforcement program and will coordinate enforcement action with DEH staff and other regulatory agencies.